

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

13

DECISION

TOPIC

**Contract - Iowa State University Extension Service – Manure Applicator
Certification Training**

The Department requests Commission approval of a contract in the amount of \$170,678 with Iowa State University Extension Service to provide manure applicator certification training and testing for the time period of July 1, 2008 through June 30, 2009. The training and testing are pursuant to HF 644 and HF 2494.

The purpose of this contract is to support activities to develop manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. Topics covered in the training materials will include: certification and manure management requirements of Iowa law and DNR rules; proper procedures for the storage, handling and land application of manure; the potential impacts of manure on surface and groundwater; the development of safety and emergency action plans; and sources of additional technical and educational assistance.

Funding for this contract is provided by fees collected from the Manure Applicator Certification Program.

Wayne Gieselman
Division Administrator
Environmental Services Division

May 10, 2008

IOWA DEPARTMENT OF NATURAL RESOURCES

CONTRACT NUMBER 09-7112-01

AGREEMENT TITLE: Manure Applicator Certification Training

Between

IOWA DEPARTMENT OF NATURAL RESOURCES

And

Iowa State University Extension Service

This Contract was approved by the Environmental Protection Commission/Natural Resources Commission on **June 5, 2007**.

IN WITNESS THEREOF, the parties hereto have executed this Contract on the day and year last specified below.

Contractor:

By: _____
Title:

Date: _____

Fed Tax I.D. Number: _____
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DEPARTMENT OF NATURAL RESOURCES

By: _____
Liz Christiansen, Deputy Director

Date: _____

This contract is entered is between the Iowa Department of Natural Resources (DNR) and Iowa State University Extension Service. The parties agree as follows:

Section 1 **IDENTITY OF THE PARTIES**

1.1 Parties. DNR is authorized to enter into this contract. DNR's address is: Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

Iowa State University Extension Service (Contractor), is an office of Iowa State University.

1.2 Project Managers. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

DNR Project Manager:	Jeff Prier Iowa Department of Natural Resources Field Office 3 712-262-4177 Jeff.Prier@dnr.state.ia.us
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Contractor Project Manager:	Angela Rieck-Hinz and Gerald Miller 2104 Agronomy Hall, Iowa State University, Ames, IA 50011 515-294-9590 amrieck@iastate.edu
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Section 2 **STATEMENT OF PURPOSE**

2.1

Background. Iowa Code section 459.315 requires that a person shall not act as a commercial manure service representative or a confinement site manure applicator unless the person is certified pursuant to an educational program conducted by DNR.

As required by Iowa Code section 459.315, DNR has adopted rules setting out the requirements for the certification, including educational program requirements. These rules are located at 567 Iowa Administrative Code section 65.19.

Iowa Code section 459.315(3)"b" provides that DNR shall administer the continuing instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by DNR. Iowa Code section 459.315(3)"b" further provides that the Iowa Cooperative Extension Service in Agriculture and Home Economics of Iowa State University of Science and Technology shall cooperate with the department in administering the continuing instructional courses. The Iowa Cooperative Extension service may teach continuing instructional courses, train persons selected to teach courses, or distribute informational materials to persons teaching the courses. The statute further provides that DNR may charge a fee for certifying a person under this section.

DNR has the authority to enter into this contract according to the provisions of Iowa Code section 455B.103(3)(2007).

2.2 Purpose. The parties have entered into this contract for the purpose of retaining the Contractor (Iowa State University Extension Service) to develop (1) training materials for manure certification training and (2) testing materials for commercial manure applicators and confinement site manure applicators. Topics covered in the training materials shall include: certification and manure management requirements of Iowa law; proper procedures for the storage, handling and land application of manure; the potential impacts of manure on surface water and ground water; the development of safety and emergency action plans; and sources of additional technical and educational assistance. The project is more fully described in the Work Plan, which is attached as Appendix A to this Contract.

Section 3 DURATION OF CONTRACT

3.1 Term of Contract. The term of this contract shall be July 1, 2008, through June 30, 2009, unless terminated earlier in accordance with the provisions of this contract.

3.2 Approval of Contract. If the amount of compensation to be paid by DNR according to the terms of this contract is equal to or greater than \$25,000.00 (twenty five thousand dollars), then performance shall not commence unless by July 1, 2008, this contract has been approved by the Environmental Protection Commission.

3.3 Renewal. DNR shall have the sole option to renew and extend this contract for subsequent periods, adding up to no more than 6 years total, by executing a signed contract prior to the expiration of this contract.

Section 4 DEFINITIONS

“Deliverables” shall mean services to be provided by, or on behalf of, the Contractor pursuant to this Contract. Deliverables shall include the tasks set out in this contract and everything produced by the contractor that is related to the tasks, such as reports, meetings, documentation, designs, copy, artwork, data, information, graphics, images, processes, techniques, materials, plans, papers, forms, studies, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature that are related to the deliverables.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the tasks set out in the “Work Plan”, attached as Exhibit A, which is incorporated into this contract by this reference. Task Milestone Dates are set out in Exhibit A. Where a Task also includes an ongoing responsibility lasting throughout the contract term, that responsibility also is set out in the Exhibit A.

Failure by Contractor to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Contract by Contractor and shall be grounds for DNR to immediately terminate this Contract for cause.

5.2 Final Notice of Acceptance. If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

5.3 Non-Exclusive Rights. This Contract is not exclusive. DNR reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

5.4 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive.

5.5 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the this type of industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

5.6 Amendments to Statement of Work – Change Order Procedure. Modifications, deletions and additions may be made to a Statement of Work at any time during the term of this contract by mutual written consent of the parties. Any amendment to a Statement of Work shall be called a Change Order, and the following procedures shall be followed:

5.6.1 Written Request. DNR shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Services.

5.6.2 The Contractor's Response. The Contractor shall submit to DNR a time and cost estimate for the requested Change Order within five (5) business days of receiving the Change Order Request.

5.6.3 Acceptance of the Contractor Estimate. If DNR accepts the estimate presented by the Contractor within five (5) business days of receiving the Contractor's response, the Contractor shall perform the modified services subject to the time and cost estimates included in the Contractor response. The Contractor's performance and the modified services shall be governed by the terms and conditions of this Contract.

5.6.4 Adjustment to Compensation. The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this

Contract and that such Change Order may require approval of the Natural Resources or Environmental Protection Commission.

Section 6 MONITORING AND REVIEW

6.1 Review Meetings. Commencing with beginning performance of this Contract, the Project Managers shall meet quarterly to discuss progress made by the Contractor during the performance of this Contract. The meetings shall occur, either in person or by telephone conference call. Meetings may be postponed only on a case-by-case basis by mutual written agreement of the parties.

6.2 Status Reports. Prior to each review meeting, each Project Manager shall provide a status report listing:

- accomplishments during the previous period,
- activities planned for the upcoming period,
- Tasks completed or deliverables produced during the previous period,
- an updated schedule of upcoming deliverables,
- any problems or concerns encountered since the last meeting, and

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

ISU shall submit to DNR an original unbound copy of all non-financial documents or reports prepared according to the terms of this contract.

6.3 DNR right to review and observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluating performance of this Contract.

Additionally, DNR shall review and comment on all products and subsequent revisions of products within 15 working days of the date of their receipt by DNR.

Section 7 COMPENSATION

7.1 Source of Funding. The source of funding for this contract is fees collected from the Manure Applicator Certification Training Program.

7.2 Not-to-exceed total amount of contract. Payment for the work performed by Contractor according to the terms of this contract shall not exceed \$170,678.00 (one hundred and seventy thousand dollars, six hundred and seventy eight dollars). Payment shall be for satisfactory completion of the Statement of Work outlined in this contract, provided that Contractor has complied with the terms of this contract.

7.3 Retained Amount. DNR shall retain ten percent (10%) of the compensation associated with this Contract to secure the Contractor's performance under this contract. The Retained Amount shall be payable only upon DNR's issuance of a written Final Notice of Acceptance.

7.4 Final Notice Acceptance of Implementation of Statements of Work. If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

7.5 Budget. The budget for this contract is attached as Exhibit C and is by this reference made a part hereof.

7.6 Submission of Invoices. Invoices shall be submitted to DNR according to the following schedule:

<u>Deliverables Due</u>	<u>Invoice Amount</u>	<u>Invoice Due Date</u>
Designated portions of Task 1 and 7, Tasks 9 and 10, and quarterly report	\$42,669.50	October 31, 2008
Designated portions of Tasks 2, 3, 5 and 7, and quarterly report	\$42,669.50	January 31, 2009
Designated portions of Tasks 4 and 7, and Task 8, and quarterly report	\$42,669.50	April 30, 2009
Designated portions of Task 7, Tasks 6 and 11 and final report	\$42,669.50	July 31, 2009

Each invoice shall itemize the work performed pursuant to the contract. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. For each payment due under this contract, the Contractor shall submit to DNR an original and two (2) copies of the invoice. Original invoices shall be submitted to:

Iowa Department of Natural Resources

Attn. Shirley Christoffersen
Wallace State Office Building
502 E. 9th Street
Des Moines, IA 50319-0034

7.7 Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State of

Iowa for any services provided by or on behalf of the Contractor under this contract. Payment of invoices shall be made to:

Iowa State University
Sponsored Programs Accounting
3609 Administrative Services Building
Ames, Iowa 50011-3609
Attn: Federal Employer ID# 420600-4224

7.8 No advance payment. No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

7.9 Delay of Payment Due to Contractor's Failure. If DNR determines that the Contractor has failed to perform or deliver any service or product required by this contract, then the Contractor shall not be entitled to any compensation, or any further compensation if compensation has already occurred, under this contract until such service or product is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the task or deliverable that was not completed, delivered and successfully deployed.

7.10 Erroneous Payments and Credits. Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

7.11 Set-off Against Sums Owed by Contractor. In the event that Contractor owes DNR or the State of Iowa ("State") any sum (including any State taxes in arrears) under the terms of this Contract, any other Contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Contractor. This may be done in DNR's sole discretion unless otherwise required by law.

7.12 Final Payment. Before final payment or a termination settlement under this contract, the Contractor shall execute and deliver to DNR a release of all claims against DNR arising under, or by virtue of, this contract except claims which are specifically exempted by the Contractor. Unless otherwise provided in this contract, by state law or otherwise expressly agreed to by the parties to the contract, final payment under a settlement upon termination of this contract shall not constitute a waiver of DNR's claims against the Contractor, or the Contractor's sureties under this contract or applicable performance and payment bonds.

GENERAL CONDITIONS

Section 8 COMPLIANCE WITH THE LAW

The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The Contractor, its employees, agents and subcontractors shall also comply with all

federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. Contractor represents and warrants that it has complied with all federal, state, foreign and local laws work applicable to the performance of its obligations under this Contract.

Section 9

TERMINATION

9.1 Termination Due to Lack of Funds or Change in Law. DNR shall have the right to terminate this Contract without penalty by giving sixty (60) days' written notice to the Contractor as a result of any of the following:

9.1.1 The legislature or governor fail in the sole opinion of DNR to appropriate funds sufficient to allow DNR to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

if funds anticipated for the continued fulfillment of the contract are, at any time, not forthcoming or are insufficient, either through the failure of DNR to appropriate funds or funding from a federal source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided,

9.1.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by DNR to make any payment hereunder are insufficient or unavailable for any other reason as determined by DNR in its sole discretion; or

9.1.3 If DNR's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

9.1.4 If DNR's duties, programs or responsibilities are modified or materially altered; or

9.1.5 If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects DNR's ability to fulfill any of its obligations under this Contract.

9.2 Immediate Termination by DNR. DNR may terminate this Contract for any of the following reasons effective immediately without advance notice and without penalty:

9.2.1 In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

9.2.2 DNR determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;

9.2.3 The Contractor fails to comply with confidentiality laws or provisions;

9.2.4 The Contractor furnished any statement, representation or certification in connection with this Contract or the RFP which is materially false, deceptive, incorrect or incomplete.

9.3 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for DNR to declare the Contractor in default of its obligations under this Contract.

9.3.1 The Contractor fails to perform, to DNR's satisfaction, any material requirement of this Contract or is in violation of a material provision of

this Contract, including, but without limitation, the express warranties made by the Contractor;

- 9.3.2** DNR determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;
- 9.3.3** The Contractor fails to make substantial and timely progress toward performance of the Contract;
- 9.3.4** The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DNR reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- 9.3.5** The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;
- 9.3.6** The Contractor has engaged in conduct that has or may expose the State or DNR to liability, as determined in DNR's sole discretion;
- 9.3.7** The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or the Contractor has misappropriated a trade secret, or
- 9.3.8** Contractor fails to comply with any of the Task Milestone dates contained in this Contract.

9.4 Notice of Default. If there is a default event caused by the Contractor, DNR shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in DNR's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, DNR may either:

- 9.4.1** Immediately terminate the Contract without additional written notice; or,
- 9.4.2** Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

9.5 Termination upon Notice. Following 30 days' written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to DNR up to and including the date of termination.

9.6 Remedies of the Contractor in Event of Termination by DNR. In the event of termination of this Contract for any reason by DNR, DNR shall pay only those amounts, if any, due and owing to the Contractor for services actually rendered up to and including the date of termination of the Contract and for which DNR is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to DNR under this Contract in the event of termination. However, DNR shall not be liable for any of the following costs:

- 9.6.1** The payment of unemployment compensation to the Contractor's employees;
- 9.6.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

9.6.3 Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;

9.6.4 Any taxes that may be owed by the Contractor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

9.7 The Contractor's Termination Duties. The Contractor upon receipt of notice of termination or upon request of DNR, shall:

9.7.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, and conclusions resulting there from, any other matters DNR may require.

9.7.2 Immediately cease using and return to DNR any personal property or materials, whether tangible or intangible, provided by DNR to the Contractor.

9.7.3 Comply with DNR's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.

9.7.4 Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

9.7.5 Immediately return to DNR any payments made by DNR for services that were not rendered by the Contractor.

9.8 Rights in incomplete products. In the event the contract is terminated, all finished or unfinished documents, data, reports, or other materials prepared by the Contractor under this contract shall, at the option of DNR, become DNR's property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other material.

Section 10 INDEPENDENT CONTRACTOR

The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents and any subcontractors performing under this Contract are not employees or agents of DNR. Neither the Contractor nor its employees shall be considered employees of DNR for federal or state tax purposes. DNR will not withhold taxes on behalf of the Contractor.

Contractor shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

Section 11 CONFLICT OF INTEREST

11.1 The Contractor covenants that the Contractor presently has no interest and shall not acquire any interest, direct and indirect, which would conflict in any manner or degree with the performance of services required under this contract. The Contractor further covenants that in the performance of this contract no person having any such interest shall be employed.

11.2 During the term of this Contract, Contractor shall not provide services that would create a conflict of interest with the Contractor's duties set out in this Contract. In determining whether a particular activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

11.2.1 The activity involves the use of the state's or DNR's time, facilities, equipment, and supplies or other evidences of employment for purposes other than the performance of Contractor's obligations under this Contract.

11.2.2 The activity involves the receipt of, promise of, or acceptance of money or other consideration by Contractor from anyone other than the state or DNR for the performance of any acts that Contractor is required or expected to perform as a part of Contractor's performance under this Contract.

11.2.3 The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of DNR.

11.3 If the activity creating a conflict of interest is in progress when the term of this Contract begins or is described in paragraph 10.2.1 or 10.2.2 above, then Contractor shall immediately cease the activity. During the term of this Contract, Contractor shall not enter into any activity described in paragraph 10.2.3 or which constitutes any other unacceptable conflict of interest. Contractor shall immediately disclose to DNR the existence of any conflict of interest, including conflicts of interest which are described in paragraph 10.2.3 and are in progress when the term of this Contract begins.

Section 12 **AMENDMENTS**

This contract may be amended only by written mutual consent of the parties.

Section 13 **CHOICE OF LAW AND FORUM**

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to DNR or the State of Iowa.

Section 14 **SEVERABILITY**

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

Section 15 **ENTIRE AGREEMENT**

This contract constitutes the entire agreement between DNR and the Contractor with respect to the subject matter hereof, and the Contractor acknowledges that it is entering into the contract solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This contract supersedes all prior contracts and agreements between DNR and the Contractor for the services provided in connection with this contract.

Section 16 **ASSIGNMENT AND DELEGATION**

This contract may not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other party. For the purpose of construing this provision, a transfer of a controlling interest in the Contractor shall be considered an assignment.

Section 17 **REPRESENTATIONS AND WARRANTIES**

17.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law. All warranties made by the Contractor in all provisions of this Contract and the Proposal by the Contractor, whether or not this Contract specifically denominates the Contractor's promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to DNR, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Contractor. The provisions of this Section apply during the term of this Contract and any extensions or renewals thereof.

17.2 Concepts, Materials, and Works Produced. Contractor represents and warrants that all the concepts, materials and Works produced, or provided to DNR pursuant to the terms of this Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and work product produced under this contract. The Contractor represents and warrants that the concepts, materials and work product produced under this contract, and DNR's use of same, and the exercise by DNR of the rights granted by this Contract, shall not infringe upon any other work, other than material provided by the Contract to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and work product produced under this contract will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute any software, the materials owned by the Contractor and any other materials, work product produced under this contract and methodologies used in connection with providing the services contemplated by this Contract.

17.3 Professional Practices. The Contractor represents and warrants that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.

17.4 Conformity with Contractual Requirements. The Contractor represents and warrants that the work product produced under this contract will appear and operate in conformance with the terms and conditions of this Contract.

17.5 Authority to Enter into Contract. The Contractor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to DNR.

17.6 Obligations Owed to Third Parties. The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that DNR will not have any obligations with respect thereto.

17.7 Title to Property. The Contractor represents and warrants that title to any property assigned, conveyed or licensed to DNR is good and that transfer of title or license to DNR is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

17.8 Industry Standards. The Contractor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the applicable industry standards in the performance of this Contract.

17.9 Technology Updates. The Contractor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.

Section 18 **CONFIDENTIALITY**

18.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by DNR to the extent necessary to carry out its responsibilities under the contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by DNR. The Contractor shall provide to DNR a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this contract. The private or confidential data shall remain the property of DNR at all times.

18.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the contract shall be disseminated except as authorized by law and with the written consent of DNR, either during the period of the contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of DNR. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the contract in whatever form it is maintained promptly at the request of DNR.

18.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify DNR and cooperate with DNR in any lawful effort to protect the confidential information.

18.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to DNR any unauthorized disclosure of confidential information.

18.5 Survives Termination. The Contractor's obligation under this contract regarding confidential materials and information shall survive termination of this Contract.

Section 19 **INTELLECTUAL PROPERTY**

19.1 Rights in Data. One copy of the information generated by the terms of this agreement shall become the property of DNR. One copy shall be retained by ISU for future research and educational purposes.

19.2 Ownership of Work Product. DNR shall own all work products developed or produced in connection with this Contract. The Contractor shall give DNR all assistance reasonably requested by DNR to perfect DNR's ownership of all work produced under this contract, including the execution and delivery of documents assigning title to DNR work produced under this contract. All applicable rights to patents, copyrights, trademarks, trade secrets and other

property rights in the work produced under this contract shall be the property of DNR. DNR shall grant the Contractor a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work produced under this contract for the purposes of complying with this contract or any relevant provision of state or federal law.

19.3 Copyrights and Use of Data

19.3.1 The term "subject data" used in this clause includes writing, technical reports, sound recordings, magnetic recordings, computer programs, computerized databases, databases in hard copy, pictorial reproductions, plans, drawings, including engineering or manufacturing drawings, specifications, or other graphical representations, and works of any similar specifications, or other graphical representations, and works of any similar nature (whether or not copyrighted) which the Contractor submits or which DNR specifies to be delivered under this Contract or which the Contractor develops or produces and DNR pays for under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

19.3.2 Except as may otherwise be provided in this contract, when publications, films, or similar materials are developed directly from a project supported by DNR, the Contractor is free to arrange for copyright without approval. The Contractor agrees to and does hereby grant to DNR, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Department purposes to publish, translate, reproduce, deliver, perform, dispose of and to authorize others so to do, all subject data, or copyrightable material based on such data, covered by copyright now or in the future.

19.3.3 The Contractor shall not include in the subject data any copyrighted matter without the written approval of the Director, unless the Contractor provides DNR with the written permission of the copyrighted owner for DNR to use the copyrighted matter in the manner provided for in subsection 16.2 above.

19.3.4 Nothing contained herein shall imply a license to DNR under any patent or be construed as affecting the scope of any license or other rights **19.3.5** Unless otherwise limited below, DNR may, without additional compensation to the Contractor, duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all subject data.

19.3.6 Notwithstanding any provisions of this contract concerning inspection and acceptance, DNR shall have the right at any time to modify, remove, obliterate, or ignore any marking restricting disclosure of subject data if the marking is not authorized by the terms of this contract.

19.3.7 Data need not be furnished for standard commercial items or services which are normally sold, or have been sold, or offered to the public commercially by any supplier and which are incorporated as component parts in or to be used with the product or process being developed or investigated under this contract if, in lieu thereof, identification of source and characteristics (including performance specifications, when necessary) sufficient to enable DNR to procure the part or practice the process, or acquire an adequate substitute, are furnished.

19.3.8 In addition to any data specified elsewhere in this contract to be furnished to DNR, the recipient shall retain and, upon written request of the Director at any time during project performance or within two years after project performance is completed, deliver any subject data not previously delivered.

19.3.9 The Contractor shall exert all reasonable effort to advise the Director of DNR, at the time of delivery of the subject data furnished under this contract, of all invasions of the right-of-privacy contained therein and of all portions of such data copied from work not composed or produced in the performance of this contract and not licensed under this section.

19.2.10 The Contractor shall report to the Director of DNR, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all subject data delivered under this contract. On receipt of this information, the parties hereto agree to confer to determine future uses to be made of the subject data.

19.2.11 In the event of any claim or suit against DNR, the state of Iowa, or the United States, on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor agrees to furnish to DNR, when requested by the Director, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of DNR except where the Contractor has agreed to indemnify DNR.

19.3.12 The Contractor or any or all of its employees or agents may duplicate, use and disclose all subject data deliverable under this contract, provided that the Contractor or such employees or agents acknowledge the contribution of DNR and the contract number of this contract and any copyright secured for such data; provided further that there shall be no pre-release or publication of data or findings connected with this in scholarly or professional journals or through public presentation or news release or otherwise until the performance of this contract is completed, unless prior written authorization has been obtained from DNR's Director.

Section 20 **ASSIGNMENT AND DELEGATION**

This Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.

Section 21 **JOINT AND SEVERAL LIABILITY** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, then all such entities shall be jointly and severally liable for carrying out the activities and obligations of this contract, and for any default activities and obligations.

Section 22 **WAIVER**

Except as specifically provided for in a waiver signed by duly authorized representatives of DNR and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

Section 23 **NOTICE**

22.1 Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar

and reliable carrier which shall be addressed to each party as set forth as follows in Section 1 of this Contract..

23.2 Each such notice shall be deemed to have been provided:

23.2.1 At the time it is actually received; or,

23.2.2 Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

23.2.3 Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

23.3 From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

Section 24 **CUMULATIVE RIGHTS**

The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

Section 25 **TIME IS OF THE ESSENCE**

Time is of the essence with respect to the performance of the terms of this Contract.

Section 26 **RECORD RETENTION AND ACCESS**

The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to DNR throughout the term of this Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records.

Section 27 **SOLICITATION**

The Contractor warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

Section 28 **OBLIGATIONS BEYOND CONTRACT TERM**

This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of DNR and the Contractor

incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

Section 29 **DELAY OR IMPOSSIBILITY OF PERFORMANCE**

The Contractor shall not be in default under this Contract if performance is delayed or made impossible by an act of God, flood, fire or similar events. In each such case, the delay or impossibility must be beyond the control and anticipation of the contractor, and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, or from circumstances which by the exercise of reasonable diligence the contractor should have been able to anticipate or prevent, then the delay or impossibility of performance. It shall be the responsibility of the Contractor to prove that performance was delayed or impossible within the meaning of this paragraph.

Section 30 **SUPERCEDES FORMER CONTRACTS OR AGREEMENTS**

Unless this Contract is an amendment to a Contract entered into between DNR of and Contractor and is designated as such, then this Contract supersedes all prior Contracts or Agreements between DNR and the Contractor for the services provided in connection with this Contract.

Section 31 **USE OF THIRD PARTIES AND SUBCONTRACTORS**

Contractor may not contract with third parties for the performance of any of Contractor's obligations under this contract.

Section 32 **SELF-INSURANCE BY THE STATE OF IOWA**

Pursuant to Iowa Code section 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this contract. No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this contract.

Section 33 **INDEMNIFICATION**

The Contractor agrees to indemnify and hold harmless the State of Iowa and DNR, its officers, employees and agents appointed and elected and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, related to or arising from:

- Any breach of this contract;
- Any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;
- The Contractor's performance or attempted performance of this contract, including any agent or subcontractor utilized or employed by the Contractor;
- Any failure by the Contractor to comply with the compliance with the Law provision of this contract;
- Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;
- Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
- Any failure by the Contractor to adhere to the confidentiality provisions of this contract.

Section 34**EQUAL EMPLOYMENT PROVISIONS**

The Contractor has read and understands the provisions in Attachment A, Equal Employment Opportunity, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

Section 35**USE OF FEDERAL FUNDING**

This provision is applicable only if federal funds constitute a part of the payment to be rendered under this contract. The Contractor has read and understands the provisions in Attachment B, Additional Requirements for Federally-funded Agreements, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

Attachment A

Equal Employment Opportunity.

It is the policy of the State of Iowa to promote equal opportunity in all state contracts and services. The Contractor agrees to the following:

A.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, national origin, age, or mental or physical disability. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated, during employment, without regard to their race, creed, color, religion, sex, national origin, age or mental or physical disability except where mental or physical disability relates to a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor's business. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post notices, setting forth provisions of this nondiscrimination clause, in conspicuous places available to employees and applicants for employment.

A.2 The Contractor shall in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, religion, sex, national origin, age, or mental or physical disability except where mental or physical disability is a bona fide occupation qualification reasonably necessary to the normal operation of the Contractor's business.

A.3 The Contractor shall comply with all relevant provisions of Iowa Code chapter 216 (the "Iowa Civil Rights Act of 1965"), Iowa Code chapter 19B, 541 Iowa Administrative Code chapter 4, Federal Executive Order 11246 of 1965, as amended by Federal Executive Order 11376 of 1967, and Title VI of the Civil Rights Act of 1964, as amended. The Contractor shall furnish all information and reports requested by the state of Iowa or required by, or pursuant to, the rules and regulations thereof and shall permit access to payroll and employment records by the state of Iowa for purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.

A.4 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the aforesaid rules, regulations or requests, this contract may be canceled, terminated or suspended in whole or in part. In addition, the State of Iowa may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act of 1965, as amended, Chapter 216, Code of Iowa, or as otherwise provided by law.

A.5 The Contractor shall include the provisions contained herein in every subcontract, unless specifically exempted by approval of the state of Iowa, so that such provisions shall be binding on each subcontract. The Contractor shall take such action with respect to any subcontract as the state of Iowa may direct as a means of enforcing such provisions, including sanctions for

noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the state of Iowa, the Contractor may request the state of Iowa to enter into such litigation to protect the interests of the state of Iowa.

A.6 In accordance with the provisions of 541 Iowa Administrative Code chapter 4:

- The contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of management, which pertain to equal employment opportunity and affirmative action.
- The contractor or subcontractor may be required to have on file a copy of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of contract.
- Compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of management prior to the execution of the contract shall be a condition of the contract or agreement binding upon the contractor or service provider, its successors, and assignees.
- Failure to fulfill the nondiscrimination requirements of this contract or any of the rules and orders may cause the contract to be canceled, terminated, or suspended in whole or in part, and the contract or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the contractor may be subject to other sanctions as provided by law or rule.
- The contractors may be required to submit to the department of management or the contracting agency a copy of its affirmative action plan containing goals and time specifications.
- The contractors shall be able to demonstrate to the satisfaction of the department of management or the contracting agency that its affirmative action program is productive.
- The contractor may be required to submit reports as requested by the department of management. The department of management may request other relevant information from a contractor at any time.
- The department of management may undertake a compliance review of the contractor, and the department of management may take action, as appropriate, to seek to terminate contracts or funding found to be in violation of the rules.

Attachment B

Additional Requirements for Federally-funded Agreements

B.1 Suspension and Debarment. The Contractor certifies pursuant to 31 CFR Part 19 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency.

B.2 Lobbying Restrictions. The Contractor shall comply with all certification and disclosure requirements prescribed by 31 U.S.C. Section 1352 and any implementing regulations and shall be responsible for ensuring that any subcontractor fully complies with all certification and disclosure requirements.

B.3 Pro-Children Act of 1994. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party. The Contractor certifies that it and its subcontractors will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

B.4 Certified Audits. Local governments and non-profit subrecipient entities that expend \$500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local Governments, and Non-Profit Organizations." A copy of the final audit report shall be submitted to DNR if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by DNR. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to DNR that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by DNR. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships.

B.5 Drug Free Work Place. The Contractor shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations.

Exhibit A

Work Plan

Development of Manure Applicator Certification Training Materials

This work plan identifies the activities the Iowa State University Extension Service (ISUE) will conduct in developing manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. These materials will be utilized, as appropriate, by ISUE and the Iowa Department of Natural Resources (DNR) to implement the manure applicator certification requirements contained in the provisions of Iowa Code section 459.315(3) and 567 Iowa Administrative Code 65.19.

Objectives:

- Develop manure certification workshop training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam questions from which DNR may develop certification exams
- Deliver manure certification workshops across the state for commercial and confinement site applicators

ISUE Responsibilities:

Task 1: By December 31, 2008, update current manure applicator certification study guides and fact sheets for commercial manure applicators and confinement site manure applicators, and ensure that the public may download copies of the study guides at the following internet address: <http://www.agronext.iastate.edu/immag/>

The certification study guides shall address the handling, application and storage of manure; the potential effects of manure on surface water and groundwater; and procedures to remediate the potential effects on surface water and groundwater. In addition, the study guides shall provide information to applicators on the nutrient values of manure and on how to use manure to maximize crop production benefits and prevent contamination of surface and groundwater. Topics covered in the Study Guides also shall include:

- The requirements of the Iowa law, including statutes, DNR rules, and any relevant federal law
- Timing of land application based on manure storage levels, crop needs, weather, and soil conditions
- Best management practices (BMPs) for manure application recommended by DNR and ISUE
- Development of Safety and Emergency Action plans
- Availability of technical and educational assistance

Additional updates as needed shall be added through June 30, 2009.

Task 2: By December 31, 2008, develop manure certification courses for Commercial Manure Applicators. This task shall include Satellite Downlink programs, archived video webcasts, and distribution of recruitment brochures and fact sheets (if needed).

Delivery of these courses shall occur as often as needed throughout the contract term. Delivery shall occur by satellite downlink and web cast presentation. Archived webcasts of the courses shall be available for viewing during regular business hours, with an appointment, at county extension offices.

Task 3: By December 31, 2008, develop manure initial certification and continuing instruction courses (CIC) for Confinement Site Manure Applicators.

- The courses shall be designed to be delivered, and shall be delivered, by Extension Field Specialists,
- ISUE shall develop the following for use in the courses or in connection with the courses, (1) fact sheets(if needed); (2) program evaluation materials; (3) videotapes for distribution following the courses/county certification meetings; and (4) recruitment materials for the courses.
- ISUE shall schedule county certification meetings/courses in most counties throughout the state, where the courses shall be delivered by Extension Field Specialists, Campus Specialists, and ISUE field office support personnel.
- ISUE shall prepare and distribute thirty (30) sets of course teaching materials, including CDs with PowerPoint training materials, to the ISUE teaching teams,

Delivery of these courses shall occur as often as needed throughout the contract term. Delivery shall occur by and live presentation. Archived webcasts of the courses shall be available for viewing during regular business hours, with an appointment, at county extension offices.

Task 4: By December 31, 2008, update a website for the general public and a website for ISUE staff use only. Additional updates shall occur as needed through June 30, 2009. Both websites shall be maintained and updated as needed throughout the contract term.

Task 5: By December 31, 2008, update manure certification exam questions as requested by DNR and field test these exam questions on selected groups. Additional updates shall occur as needed through June 30, 2009.

Task 6: Meet at least once by June 30, 2009, with the ISU Extension Natural Resources Plan of Work Committee and the Iowa Commercial Nutrient Applicators Associations as advisory groups in manure applicator certification decisions, and submit written quarterly reports to DNR stating the outcome of these partnerships.

Task 7: Use the mass media and personal contact to keep the public, support groups, and external partners informed about the program. Submit written quarterly reports to DNR

summarizing the number of contacts made, the number of new partnerships formed, and the outcome of those partnerships. Publish evaluation and other data relating to numbers and behavior change resulting from the certification program, and submit this information in writing to DNR in quarterly reports due October 31, 2008; January 31, 2009; April 30, 2009; and July 31, 2009.

Task 8: By March 31, 2009, identify commercial manure applicators to serve on an advisory committee for development of commercial manure applicator training materials.

Task 9: By December 31, 2008, provide in-service training to ISUE Field Specialists to implement training materials for the Manure Applicator Certification program.

Task 10: By December 31, 2008, provide in-service training to ISUE field staff support personnel and County Directors responsible for county program delivery to implement administrative paperwork for Manure Applicator Certification Program.

Task 11: By July 31, 2009, ISUE shall submit to DNR a final project report covering all activities conducted during the period July 1, 2008, through June 30, 2009. The report shall include copies of all materials developed, a description of the overall project, discussion of all activities conducted and results achieved and recommendations on utilization of the project findings, and an identification of additional public information needs identified as a result of this project. As part of the final report, the Contractor shall provide DNR with a written comprehensive summary of the total actual project costs. DNR also shall provide identification of the individual funding sources used to support the project and the amount of funding provided by each source.

Exhibit B

Supplement to Exhibit A – DNR Responsibilities

In order for ISUE to fulfill objectives and work activities identified in Appendix A – Work Plan, DNR agrees to provide the following information and materials as identified according to work activity tasks.

For Task 1:

DNR will participate in reviewing and developing the materials used in the annual certification programs. DNR will provide current information pertaining to rules and regulations, appropriate case studies and other materials as identified by DNR.

For Task 2:

- DNR will participate in the Satellite Downlink program and prepare and present agreed upon subject matter materials during the program. Materials will be provided to ISUE by the agreed deadline discussed at the annual planning meeting for program implementation.
- DNR will provide a current database of commercial applicator names, addresses, certification numbers, phone numbers and certification deadlines to ISUE to use as a recruitment and tracking tool for the MAC program. This database will be provided on a quarterly basis.
- DNR will mail reminder postcards to Commercial Applicators 60 days in advance of their certification deadline to inform them how to maintain certification.

For Task 3:

- DNR will assist with development of agreed upon subject matter materials during the program. Materials will be provided to ISUE by the agreed deadline discussed at the annual planning meeting for program implementation.
- DNR will provide a current database of confinement site applicator names, addresses, certification numbers, annual CICs and certification deadlines to ISUE to use as a recruitment and tracking tool for the MAC program. This database will be provided on a quarterly basis.
- DNR will mail reminder postcards to Confinement Site Applicators 60 days in advance of their CIC deadline or 3-yr. certification deadline to inform them how to receive continuing instruction courses or recertify at the end of the 3-yr period. This material will also include information on dates and locations of certification exams.

For Task 4:

DNR will review materials developed for this site for technical content.

For Task 5:

DNR will request of ISUE updated exam questions 90 days in advance of plans to administer new exams.

For Task 6:

DNR will assist in selection of representative(s) to serve on this advisory committee.

For Task 7:

In order to provide accurate reporting, DNR will furnish the following data for both the confinement site manure applicator program and the commercial manure applicator program: attendance (number of people trained yearly and number of people certified), number of new certifications, number of people receiving CICs for confinement site program, certification events, and number of people certified by exam.

For Task 8:

DNR will assist in identifying commercial applicators for advisory committee membership and will share program-planning ideas for subject matter development in the Commercial manure applicator program.

For Task 9:

DNR will provide assistance during in-service training as requested by ISUE.

For Task 10:

DNR will provide assistance during this in-service training as requested by ISUE.

Exhibit C

Budget FY2009 – Manure Applicator Certification

Salary and Wages

Program Coordinator(s) 1.2 FTE	55,682
Confinement Program Staff (Field Specialists)	24,720
Technical writers, editor and video production staff	10,200

Personnel Benefits

Program Coordinators	18,208
Confinement Program Staff (Field Specialists)	8,083
Technical writers, editor and video production staff	3,335

SUBTOTAL – PERSONNEL120,228

Travel

Field Specialists and Campus Faculty and staff	11,000
Supplies	

Postage2,500

Paper, office supplies, video session supplies2,000

Other

County Extension Workshop Support18,000
(meeting rooms, postage, technical support)

Telecom/Computer1,200

Satellite Downlink Costs5,000

In-Service Training -Field Specialists (2hrs).....750

Printing/Copying.....

(training material production and distribution charges)5,000

Web page design, closed captioning, editor,
and commercial program staff5,000

Total Project Costs.....\$170,678

IOWA DEPARTMENT OF NATURAL RESOURCES

Contract Number: 08-7112-01

Contract Amount: **\$164,132,170,678**

Contract Title: **Manure Applicator
Certification Training**

Time of Performance: **July 1, 2007 2008
through June 30, 2008 2009**

Project Officer: **Dr. Gerald A. Miller;**
Phone: (515) 294-4333
Email: soil@iastate.edu
Mailing Address: 132 Curtiss Hall, Ames,
IA 50011-1050

DNR Contract Officer: **Jeff Prier**
Phone: (712) 262-4177
Email: Jeff.Prier@dnr.state.ia.us
Iowa Department of Natural Resources,
Field Office 3

Submit Original Invoice:
**Department of Natural Resources
ATTN: Shirley Christoffersen
Wallace State Office Building
502 E. 9th Street
Des Moines, IA 50319-0034**

Issue Payment to:
**Iowa State University
3609 Administrative Services Building
Ames, IA 50011-3609**

FEDERAL ID 42-6004224

The Contractor agrees to deliver all supplies and perform all services set forth in the attached Special Conditions, for the consideration stated herein. The rights and obligations of the parties to this Contract shall be subject to and governed by the attachments, the Special Conditions and the General Conditions. To the extent of any inconsistency between the attachments, Special and General Conditions and any specifications or other conditions which are made a part of this Contract by reference or otherwise, the Special and General Conditions shall control. To the extent of any inconsistency between the Special and the General Conditions, the Special Conditions shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

IOWA STATE UNIVERSITY

IOWA DEPT. OF NATURAL RESOURCES

By: _____
Anne Kinzel
Senior Award Administrator

By: _____
Elizabeth Christiansen
Deputy Director

Date: _____

Date: _____

By: _____
Dr. Gerald A. Miller, PI

Date: _____

SPECIAL CONDITIONS

ARTICLE I. IDENTIFICATION OF PARTIES AND PROJECT

This agreement is entered into by and between the Iowa Department of Natural Resources (hereinafter referred to as the Department) and the Iowa State University - Department of Agronomy (hereinafter referred to as the Contractor) to complete the project, Manure Applicator Certification Training. This agreement and the level of funding implied herein is exclusive of, and in addition to, any other agreements between the referenced parties.

ARTICLE II. DESIGNATION OF OFFICIALS

- 2.1 Department. The Deputy Director of the Department is the official authorized to execute any changes in the terms, conditions, or amounts specified in this contract. Jeff Prier is designated to negotiate on behalf of the Department and, subject to the approval of the Director, make any changes to the Contract.
- 2.2 Contractor. The Iowa State University Contracts & Grants Officer is the official authorized to execute any changes in the terms, conditions, or amounts specified in this contract on behalf of Iowa State University subject to the approval of the Chair of the Department of Agronomy.
- 2.3 Key Personnel for Contractor. Dr. Gerald A. Miller.

ARTICLE III. TIME OF PERFORMANCE

The Contractor shall commence work on this Contract on the beginning date and complete Contract tasks by the ending date, as set forth on the title page of this Contract under "Amended Time of Performance," unless changed by mutual written agreement.

ARTICLE IV. STATEMENT OF PURPOSE

Iowa State University Extension Service (ISUE) will conduct activities in developing manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. These materials will be utilized, as appropriate, by ISUE and the Iowa Department of Natural Resources (DNR) to implement the manure applicator certification requirements contained in the provisions of House File 2494, enacted by the Iowa Legislature in 1998.

Objectives:

- Develop manure certification workshop training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam questions from which DNR may develop certification exams

- Deliver manure certification workshops across the state for commercial and confinement site applicators

ARTICLE V. SCOPE OF WORK

- 5.1 The contractor will conduct the work for the **Manure Applicator Certification Training** as described in the attached Workplan (Exhibit A). The Workplan is incorporated as a part of this Contract.
- 5.2 The contractor will by December 31, 2007/2008, update current manure applicator certification study guides and fact sheets for commercial manure applicators and confinement site manure applicators, and ensure that the public may download copies of the study guides at the following internet address: <http://www.agronext.iastate.edu/immag/>
- 5.3 The contractor will by December 31, 2007/2008, develop manure certification courses for Commercial Manure Applicators. This task shall Include Satellite Downlink programs, archived video webcasts, and distribution of recruitment brochures and fact sheets.
- 5.4 The contractor will by December 31, 2007/2008, develop manure initial certification and continuing instruction courses (CIC) for Confinement Site Manure Applicators.
- 5.5 The contractor will by December 31, 2007/2008, update a website for the general public and a website for ISUE staff use only. Additional updates shall occur as needed through June 30, 2008. Both websites shall be maintained and updated as needed throughout the contract term.
- 5.6 The contractor will by December 31, 2007/2008, update manure certification exam questions as requested by DNR and field test these exam questions on selected groups. Additional updates shall occur as needed through June 30, 2008/2009.
- 5.7 The contractor will meet at least once by June 30, 2008/2009, with the ISU Extension Natural Resources Plan of Work Committee and the Iowa Commercial Nutrient Applicators Associations as advisory groups in manure applicator certification decisions, and submit written quarterly reports to DNR stating the outcome of these partnerships.
- 5.8 The contractor will use the mass media and personal contact to keep the public, support groups, and external partners informed about the program; will submit written quarterly reports to DNR summarizing the number of contacts made, the number of new partnerships formed, and the outcome of those partnerships; will publish evaluation and other data relating to numbers and behavior change resulting from the certification program; and submit this information in writing to DNR in quarterly reports due October 31, 2007/2008; January 31, 2008/2009; April 30, 2008/2009; and July 31, 2008/2009.
- 5.9 The contractor will by March 31, 2008/2009, identify commercial manure applicators to serve on an advisory committee for development of commercial manure applicator training materials.
- 5.10 The contractor will by December 31, 2007/2008, provide in-service training to ISUE Field Specialists to implement training materials for the Manure Applicator Certification program.
- 5.11 The contractor will by December 31, 2007/2008, provide in-service training to ISUE field staff support personnel and County Directors responsible for county program delivery to implement administrative paperwork for Manure Applicator Certification Program.
- 5.12 The contractor will by July 31, 2008/2009, submit to DNR a final project report covering all activities conducted during the period July 1, 2007/2008, through June 30, 2008/2009. The

report shall include copies of all materials developed, a description of the overall project, discussion of all activities conducted and results achieved and recommendations on utilization of the project findings, and an identification of additional public information needs identified as a result of this project. As part of the final report, the Contractor shall provide DNR with a written comprehensive summary of the total actual project costs. DNR also shall provide identification of the individual funding sources used to support the project and the amount of funding provided by each source.

ARTICLE VI. MILESTONES:

See Article V Scope of Work and Exhibit A.

ARTICLE VII. REPORTS

. Quarterly and final reports as listed in Exhibit A

ARTICLE VIII. REVIEW OF WORK

The Department or its advisers shall have the right to review and observe at any time, completed work or work in progress on the Project. Operations of the Department pertaining to this program shall be open to the Contractor as well.

ARTICLE IX. FUNDING

9.1. The source of funding for this contract is fees collected from the Manure Applicator Certification Training Program.

ARTICLE X. PAYMENT

- 10.1. This Contract is entered into on a fixed-price basis. The Contractor shall be paid \$164,132,170,678 in quarterly payments of \$41,033,426,669.50 and based on satisfactory completion of the Statement of Work outlined in this contract, provided that Contractor has complied with the terms of this contract.
- 10.2. The budget for this contract is attached as Exhibit C and is by this reference made a part hereof.
- 10.3. Because of direct benefit to Iowa producers, no indirect costs shall be charged on this project.
- 10.4. Contractor shall submit invoices to DNR according to the following schedule:

Deliverables Due	Invoice Amount	Invoice Due Date
Designated portions of Task 1 and 7, Tasks 9 & 10 and quarterly report	\$41,033.00 42,669.50	October 31, 20072008
Designated portions of Tasks 2, 3, 5, and 7, and quarterly report	\$41,033.00 42,669.50	January 31, 20082009
Designated portions of Tasks 4 and 7, and Task 8, and quarterly report	\$41,033.00 42,669.50	April 30, 20082009
Designated portions of Task 7, Tasks 6 and 11 and final report	\$41,033.00 42,669.50	July 31, 20082009

GENERAL CONDITIONS

(as of 10/5/2006)

"General Conditions shall all be subject to Iowa Code Chapter 28E."

Section 1.0 Entire Agreement

This Contract with all attachments and references constitutes the entire Agreement between the Department* and the Contractor with respect to the subject matter hereof, and the Contractor acknowledges that it is entering into the Contract solely on the basis of the terms and conditions herein contained and not in reliance upon any representative statement, inducement or promise, whether oral or written, not contained herein.

Section 2.0 Amendment

The Department or the Contractor may initiate an amendment to this Contract. Any amendment is effective only if in writing and agreed to by the Department and the Contractor. The amendment shall be effective as of the date it is agreed upon, unless otherwise specified in the amendment.

Section 3.0 Availability of Data

All information and data obtained by the Contractor in connection with the Contract shall be made available to the Department. One copy of such information and data shall become the property of the Department except that which is necessary for any patent or copyright purposes of the Contractor.

Section 4.0 Assumption of Risks and Liabilities

The Contractor shall assume all risks and liabilities in connection with the performance of the Contract and shall be responsible for all claims, demands, actions or causes of action of whatever nature or character arising out of or by reason of the execution or performance of the work provided for herein. The Contractor shall indemnify and hold harmless the Department, its employees, agents or representatives, and the state of Iowa from all claims, demands, actions or causes of action, and shall be responsible for attorney fees, costs and expenses incurred by the Department, its employees, agents or representatives and the state of Iowa, except to the extent caused by the state of Iowa, to the full extent permitted by Chapter 669, Code of Iowa.

Section 5.0 Transfer of Work

The Contractor shall not transfer or assign any part or portion of the work on the Contract, other than specified in the scope of work and/or budget documents (Special Conditions) without the prior written consent of the Department.

* Iowa Department of Natural Resources

Section 6.0 Review of Work

The Department shall have the right to review and observe, at any time, completed work or work in progress on the Contract.

Section 7.0 Publications

- 7.1 All of the Contractor's reports and publications pertaining to work performed under this Contract shall contain the following statement on the credit sheet:

"This project was supported, in part, by the Iowa Department of Natural Resources, through Grant No. **08-7112-01**. However, any opinions, findings, conclusions or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of IDNR."

- 7.2 The Department reserves the right to publish the reports once completed by the Contractor and delivered to the Department. Written and oral releases are considered to be within the context of publication rights so reserved by the Department. The contractor shall not publish interim reports without prior written consent of the Department.
- 7.3 Nothing in this section shall be construed to limit the rights of the Contractor to publish data or information in scholarly or professional journals as long as any copyright to be obtained is not prejudiced thereby. There shall be no pre-release of data or findings connected with this Contract in scholarly or professional journals or through public presentations or news media until the Contract is completed, unless prior written approval for such release has been given by the Department. Doctoral dissertations and master's theses resulting from work under this agreement are exempt from prior approval. Copies of such works will be provided to the Department prior to defense. Contract completion is defined herein as termination of the Contract.
- 7.4 All reports interim and final, published by either the Contractor or the Department, will give credit to the other party's participation in the Contract.
- 7.5 Neither the Department nor the Contractor shall use the name of the other for advertising, promotional, or publicity purposes without the prior written consent of the other.

Section 8.0 Accounts and Records

- 8.1 The Contractor agrees to maintain books, documents, and other records pertaining to all costs and expenses incurred and revenues acquired during this Contract to the extent and in such detail as will properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed. The Contractor shall be prepared to support charges for salaries and wages by time, attendance and payroll records.

- 8.2 The Iowa Department of Natural Resources, State Auditor, U.S. Department of Energy, and Comptroller General of the United States, or any of their duly appointed representatives, shall have access for the purpose of audit and examination to any books, documents, papers and records of the Contractor which are pertinent at all reasonable times during the period of retention provided for in paragraphs 8.3, 8.4, and 8.5 below and shall have the right to make copies of excerpts or make other transcriptions thereof, subject to the provisions of 199 Iowa Administrative Code Section 1.9 and Iowa Code Chapter 22.
- 8.3 All records in the possession of the Contractor pertaining to this Contract shall be retained by the Contractor for a period of three (3) years beginning with the date upon which the final payment under this Contract is issued. Records for nonexpendable property acquired under this Contract shall be retained for a three (3) year period after the final disposition of the property.
- 8.4 Records relating to any litigation or claim arising out of the performance of this Contract, or costs or expenses of this Contract to which exception has been taken as a result of inspection or audit, shall be retained by the Contractor until such litigation, claim, or exception has been finally settled or until the three (3) year period has expired, whichever occurs later.
- 8.5 The Contractor, in maintaining Contract expenditure accounts and records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from any administrative reviews and audits by the United States or by the state of Iowa or by the Contractor. Such adjustments shall be set forth in the financial reports filed with the Department.

Section 9.0 Allowable Costs

- 9.1 Allowable costs are specified under the Approved Budget of this Contract. Allowable costs are subject to audit under the principles defined in Office for Management and Budget (OMB) Circulars A-21, A-87, A-102, A-110, and A-122, whichever is applicable to Contractor.
- 9.2 Indirect cost rates, if applicable, shall be determined according to the principles defined in Office for Management and Budget (OMB) Circulars A-21, A-87, A-102, A-110, and A-122, whichever is applicable to Contractor.

Section 10.0 Unallowable Costs

The following costs are unallowable under this Contract:

- a. Legal expenses for the prosecution of claims against the Department, the State of Iowa, the Federal Government, or any subdivision thereof;

- b. The difference in costs between first class air accommodations and less than first class air accommodations, unless less than first class air accommodations are not available;
- c. Costs incurred prior to the effective date of the Contract;
- d. Costs of preparing proposals for potential contracts;
- e. Bad debts (any losses arising from uncollectible amounts and other claims and related costs);
- f. Contingencies (contributions to a contingency reserve or any similar provision for unforeseen events);
- g. Contributions or donations;
- h. Entertainment (cost of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities);
- i. Fines and penalties (costs resulting from violations of, or failure to comply with federal, state and local laws and regulations);
- j. Other financial costs (interest on borrowings -- however represented, bond discounts, costs of financing and refinancing operations, and legal and professional fees paid in connection therewith).
- k. Indirect costs are not allowable per Section 10.3 of the Special Conditions.

Section 11.0 Termination of Contract

- 11.1 Termination for cause - The Department may terminate this Contract in whole or in part, at any time before the expiration date, with a 15 day notice of termination and right to cure whenever the Department has determined that the Contractor has materially failed to comply with the conditions of the Contract. The Department shall promptly notify the Contractor in writing of the determination and reasons for termination, together with the effective date. Payments made to the Contractor or recoveries by the Department under Contracts terminated for cause shall be in accord with the legal rights and liabilities of the parties.
- 11.2 Termination for convenience - The Department or Contractor may terminate the Contract in whole or in part when both parties agree that the continuation of the Contract would not produce beneficial results commensurate with the future expenditure of funds with at least a 30 day termination notice. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The Contractor shall not incur new obligations for the terminated portion after the effective date and shall cancel as may outstanding obligations as possible. The Contractor shall prepare and deliver to the Department copies of a final report summarizing the work performed and the results obtained to date, together with such information and items which, if the Contract had been completed, would have been required to be furnished to the Department.

Section 12.0 Patents

Title to any and all patentable discoveries and patents therefrom originating as result of any sponsored research set forth in this Agreement shall be vested in the Contractor. The Contractor shall evaluate each such discovery, and if in its judgment the attendant circumstances warrant filing a patent application, it shall do so at its own expense. The state of Iowa and any department or divisions thereof, and all political subdivisions within the state shall be entitled to an irrevocable, non-exclusive, royalty-free license for government purposes under any patent held by the Contractor which originates under this Agreement.

Section 13.0 Copyrights and Use of Data

- 13.1 The term "subject data" as used herein includes research data and reports, writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature which are specified to be delivered under this Contract. The term does not include financial reports, costs analyses, and similar information incidental to Contract administration.
- 13.2 The Contractor shall be considered the author of all original subject data.
- 13.3 Subject to the provisions of Section 13.4 below, the state may duplicate, use, and disclose in any manner for any authorized state activity, and may allow others to do so, all subject data deliverable under this Contract.
- 13.4 In the event the Contractor secures a registered copyright, the Contractor agrees to and does hereby grant to the state, its officers, agents and employees acting within the scope of their official duties, a royalty-free, non-exclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so for use by the state, its division, instrumentalities and local subdivisions, all subject data now or hereafter covered by a copyright. If such subject data is not originated in the performance of this Contract, such license shall be only to the extent that the Contractor, its employees or any individual or concern employed or assigned by the Contractor to originate and prepare such data under this Contract, now has, or prior to completion of final settlement of this Contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
- 13.5 The Contractor shall exert all reasonable efforts to advise the Department at the time of delivery of the subject data furnished under this Contract of all invasions of the right of privacy contained herein and of all portions of such data copied from work not composed or produced in the performance of this Contract and not licensed under this Section.
- 13.6 The Contractor shall report to the Department promptly in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all subject data delivered under this Contract. On receipt of this information, the parties hereto agree to confer to determine future uses to be made of the subject data.
- 13.7 The Contractor or any or all of its employees or agents may duplicate, use and disclose all subject data delivered under this Contract, provided that the Contractor or such employees

or agents acknowledge the contribution of the Department and the Contract number of this Contract and any copyright secured for such subject data. There shall be no pre-release or publication of data or findings connected with this Contract in scholarly or professional journals or through public presentation or news release or otherwise until the performance of this Contract is completed unless prior written authorization has been obtained from the Department.

Section 14. Notice and Assistance Regarding Patent and Copyright Infringement

- 14.1 The Contractor agrees to report to the Department promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.
- 14.2 In the event of any claim or suit against the Department, the state of Iowa, their employees, agents, or representatives, or the United States, on account of an alleged patent or copyright infringement arising out of the work or services performed hereunder, the Contractor agrees to furnish the Department, upon request, all evidence and information in the possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Department except where the Contractor has agreed to indemnify the Department.

Section 15.0 Equipment

- 15.1 Definition - As used herein, the term "equipment" means nonconsumable tangible personal property to be used in the performance of the Contract, having an acquisition cost of Five-Thousand (\$5000) Dollars or more, and useful life expectancy of greater than one (1) year.
- 15.2 All property procurements with a unit value of Five-Thousand (\$5000) Dollars or more must be approved in advance by the Department. All property procurement by the Contractor shall be according to standards stated in the Office for Management and Budget (OMB) Circular A-110, Attachments N & O. The title of all property purchased with a unit value of Five-Thousand (\$5000) Dollars or more remains vested with the Department.
- 15.3 Upon request, the Contractor shall provide the Department with invoice(s) of property purchased. Such purchased property must correspond with approved Contract items.
- 15.4 The Contractor will keep an inventory of the property in their jurisdiction. Inventories must include the following property characteristics: a) the serial number if applicable; b) the Contract Number (if acquisition occurred as part of the Contract); c) its description; d) the date of acquisition; e) invoice number, if purchased; f) the original purchase price; and g) the physical location of the property.
- 15.5 The Contractor shall maintain a control system to insure adequate safeguards to prevent loss, damage or theft to the property. Any loss, damage, or theft of property shall be

investigated, fully documented and reported to the Department within sixty (60) calendar days of occurrence.

- 15.6 The Contractor shall implement maintenance procedures to keep all property in good condition. Maintenance costs in excess of one-half (1/2) the estimated current fair market value of property shall require prior Department approval.
- 15.7 Upon termination of this Contract or upon Department need of the property, all property shall be released to the Department. Appropriate disposition instruction will be issued to the Contractor after the Department's review. Any costs associated with the disposition or return of the equipment will be borne by the Department.

Section 16.0 Assignment of Interest

Neither the Contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor to any other party or parties. Attempted assignment may be considered, at the option of the Department, to be a substantial breach and cause for termination within the meanings of Section 11.1 of the General Conditions.

Section 17.0 Personnel

- 17.1 Selection - The Contractor represents that it has, or will secure, all personnel required in performing the work and services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Department.
- 17.2 Qualification - All of the work and services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.
- 17.3 Change of Key Personnel - Any individual specified by name under the article Key personnel within the Special Conditions herein is considered essential to the work and services to be performed. If for any reason substitution for a specified individual becomes necessary, the Contractor shall provide immediate written notification of such to the Department. The Contractor shall provide the name and resume of qualifications for the replacement individual. Any replacement shall be subject to the approval of the Department.

Section 18.0 Effect of Invalidity

If any of the provisions herein shall be in conflict with the laws of the state of Iowa, or shall be declared to be invalid by any court of record in this state, such invalidity shall be construed to affect only such portions as are declared invalid or in conflict with the law and such remaining portions of the Contract shall remain in effect and shall be construed as if such invalid or conflicting portions were not contained herein.

Section 19.0 Litigation

- 19.1 To the full extent permitted by Chapter 669, code of Iowa and the laws of the State of Iowa, the Contractor agrees to pay the cost of any litigation arising from failure of the Contractor to comply with the conditions or terms of this Contract or resulting from the negligence or incompetence of the Contractor. In carrying out the provisions of the Contract or in exercising any power or authority otherwise, it is understood that in such matters the Department acts for the state.
- 19.2 The venue for any cause of action based upon this Contract by either party to this Contract, shall be in Polk County, Iowa, and the law of the state of Iowa shall apply.

Section 20.0 Assurance

- 20.1 The Contractor hereby assures and certifies to comply with the regulations, policies, guidelines, and requirements of the Office for Management and Budget (OMB) Circulars No. A-133, A-21, and A-110, and 47 CFR, No. 129, as they relate to the use of federal funds for this project.
- 20.2 The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age, political belief, or handicap, in its employment practices. Such employment practices may include, but are not limited to, recruitment, recruitment advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.
- 20.3 The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or representative of the Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 20.4 The Contractor will comply with all relevant provisions of the Iowa Civil Rights Act, Iowa Executive Order #15 of 1973, Title VI of the Civil Rights Act of 1964 (P.L. 88-352), Section 16 of the Federal Energy Administrative Act of 1974 (P.L. 93-275), Section 401 of The Energy Reorganization Act of 1974 (P.L. 93-438), Title IX of the Educational Amendments of 1972, as amended (P.L. 92-318), P.L. 93-568, and P.L. 94-482), Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), the Age Discrimination Act of 1975, (P.L. 94-135), Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), the Department of Energy Organization Act of 1977 (P.L. 95-91), and the Energy Conservation and Production Act of 1976, as amended (P.L. 94-385). The Contractor shall furnish all information and reports requested by the Department and will permit access to its payroll and employment records by the Department or the Department's grantor agency for purposes of investigation to ascertain compliance with this nondiscrimination clause.
- 20.5 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract, this Contract may be canceled, terminated or suspended in whole or in part and

the Contractor may be declared ineligible for further contracts with the Department. In addition, the Department may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act, Chapter 601 A, Code of Iowa 1977, as heretofore and hereinafter amended, or as otherwise provided by law.

- 20.6 The Contractor will include the provisions of subsections 20.1 through 20.5 hereof, in every subcontract unless specifically exempted by approval of the Department, so that such provisions will be binding on each subcontractor and vendor. The Contractor will take such action with respect to any subcontractor as the state may direct as a means of enforcing such provisions including sanction for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the state, the Contractor may request the state of Iowa to enter into such litigation to protect the interests of the state of Iowa.

Section 21.0 Contingent Fees

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Section 22.0 Officers Not to Benefit

No officer or employee of the state shall participate in any decision relating to this Contract which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; or have any interest, direct or indirect, in this Contract or the proceeds thereof.

Section 23.0 Audit Requirement

At the request of the Department the Contractor shall submit a copy of its regularly conducted annual audit(s), pursuant to OMB Circular A-133 to the Department for the time period(s) encompassed by this Contract. If this audit is not performed or available, subsequent arrangements are to be made with the Department.

Section 24.0 Availability of Funds

If funds anticipated for the continued fulfillment of this agreement are at any time not forthcoming or insufficient, either through the failure of the Federal Government or of the State of Iowa to appropriate funds, or discontinuance or material alteration of the program under which funds were provided, then the Department shall have the right to terminate this agreement

without penalty in accordance with Section 11.1 of the General Conditions by giving not less than thirty days written notice documenting the lack of funding.

Exhibit A

Work Plan

Development of Manure Applicator Certification Training Materials

This work plan identifies the activities the Iowa State University Extension Service (ISUE) will conduct in developing manure certification training and testing materials for commercial manure applicators and confinement site manure applicators. These materials will be utilized, as appropriate, by ISUE and the Iowa Department of Natural Resources (DNR) to implement the manure applicator certification requirements contained in the provisions of Iowa Code section 459.315(3) and 567 Iowa Administrative Code 65.19.

Objectives:

- Develop manure certification workshop training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam training materials for commercial manure applicators and confinement site manure applicators
- Develop and update manure certification exam questions from which DNR may develop certification exams
- Deliver manure certification workshops across the state for commercial and confinement site applicators

ISUE Responsibilities:

Task 1: By December 31, 2007/2008, update current manure applicator certification study guides and fact sheets for commercial manure applicators and confinement site manure applicators, and ensure that the public may download copies of the study guides at the following internet address: <http://www.agronext.iastate.edu/immag/>

The certification study guides shall address the handling, application and storage of manure; the potential effects of manure on surface water and groundwater; and procedures to remediate the potential effects on surface water and groundwater. In addition, the study guides shall provide information to applicators on the nutrient values of manure and on how to use manure to maximize crop production benefits and prevent contamination of surface and groundwater. Topics covered in the Study Guides also shall include:

- The requirements of the Iowa law, including statutes, DNR rules, and any relevant federal law
- Timing of land application based on manure storage levels, crop needs, weather, and soil conditions
- Best management practices (BMPs) for manure application recommended by DNR and ISUE
- Development of Safety and Emergency Action plans
- Availability of technical and educational assistance

Additional updates as needed shall be added through June 30, 20082009.

Task 2: By December 31, 20072008, develop manure certification courses for Commercial Manure Applicators. This task shall Include Satellite Downlink programs, archived video webcasts, and distribution of recruitment brochures and fact sheets (if needed).

Delivery of these courses shall occur as often as needed throughout the contract term. Delivery shall occur by satellite downlink and web cast presentation. Archived webcasts of the courses shall be available for viewing during regular business hours, with an appointment, at county extension offices.

Task 3: By December 31, 20072008, develop manure initial certification and continuing instruction courses (CIC) for Confinement Site Manure Applicators.

- o The courses shall be designed to be delivered, and shall be delivered, by Extension Field Specialists,
- o ISUE shall develop the following for use in the courses or in connection with the courses, (1) fact sheets(if needed); (2) program evaluation materials; (3) videotapes for distribution following the courses/county certification meetings; and (4) recruitment materials for the courses.
- o ISUE shall schedule county certification meetings/courses in most counties throughout the state, where the courses shall be delivered by Extension Field Specialists, Campus Specialists, and ISUE field office support personnel.
- o ISUE shall prepare and distribute thirty (30) sets of course teaching materials, including CDs with PowerPoint training materials, to the ISUE teaching teams,

Delivery of these courses shall occur as often as needed throughout the contract term. Delivery shall occur by and live presentation. Archived webcasts of the courses shall be available for viewing during regular business hours, with an appointment, at county extension offices.

Task 4: By December 31, 20072008, update a website for the general public and a website for ISUE staff use only. Additional updates shall occur as needed through June 30, 20082009. Both websites shall be maintained and updated as needed throughout the contract term.

Task 5: By December 31, 20072008, update manure certification exam questions as requested by DNR and field test these exam questions on selected groups. Additional updates shall occur as needed through June 30, 20082009.

Task 6: Meet at least once by June 30, 20082009, with the ISU Extension Natural Resources Plan of Work Committee and the Iowa Commercial Nutrient Applicators Associations as advisory groups in manure applicator certification decisions, and submit written quarterly reports to DNR stating the outcome of these partnerships.

Task 7: Use the mass media and personal contact to keep the public, support groups, and external partners informed about the program. Submit written quarterly reports to DNR

summarizing the number of contacts made, the number of new partnerships formed, and the outcome of those partnerships. Publish evaluation and other data relating to numbers and behavior change resulting from the certification program, and submit this information in writing to DNR in quarterly reports due October 31, 20072008; January 31, 20082009; April 30, 20082009; and July 31, 20082009.

Task 8: By March 31, 20082009, identify commercial manure applicators to serve on an advisory committee for development of commercial manure applicator training materials.

Task 9: By December 31, 20072008, provide in-service training to ISUE Field Specialists to implement training materials for the Manure Applicator Certification program.

Task 10: By December 31, 20072008, provide in-service training to ISUE field staff support personnel and County Directors responsible for county program delivery to implement administrative paperwork for Manure Applicator Certification Program.

Task 11: By July 31, 20082009, ISUE shall submit to DNR a final project report covering all activities conducted during the period July 1, 20072008, through June 30, 20082009. The report shall include copies of all materials developed, a description of the overall project, discussion of all activities conducted and results achieved and recommendations on utilization of the project findings, and an identification of additional public information needs identified as a result of this project. As part of the final report, the Contractor shall provide DNR with a written comprehensive summary of the total actual project costs. DNR also shall provide identification of the individual funding sources used to support the project and the amount of funding provided by each source.

Exhibit B

Supplement to Exhibit A – DNR Responsibilities

In order for ISUE to fulfill objectives and work activities identified in Appendix A – Work Plan, DNR agrees to provide the following information and materials as identified according to work activity tasks.

For Task 1:

DNR will participate in reviewing and developing the materials used in the annual certification programs. DNR will provide current information pertaining to rules and regulations, appropriate case studies and other materials as identified by DNR.

For Task 2:

- DNR will participate in the Satellite Downlink program and prepare and present agreed upon subject matter materials during the program. Materials will be provided to ISUE by the agreed deadline discussed at the annual planning meeting for program implementation.
- DNR will provide a current database of commercial applicator names, addresses, certification numbers, phone numbers and certification deadlines to ISUE to use as a recruitment and tracking tool for the MAC program. This database will be provided on a quarterly basis.
- DNR will mail reminder postcards to Commercial Applicators 60 days in advance of their certification deadline to inform them how to maintain certification.

For Task 3:

- DNR will assist with development of agreed upon subject matter materials during the program. Materials will be provided to ISUE by the agreed deadline discussed at the annual planning meeting for program implementation.
- DNR will provide a current database of confinement site applicator names, addresses, certification numbers, annual CICs and certification deadlines to ISUE to use as a recruitment and tracking tool for the MAC program. This database will be provided on a quarterly basis.
- DNR will mail reminder postcards to Confinement Site Applicators 60 days in advance of their CIC deadline or 3-yr. certification deadline to inform them how to receive continuing instruction courses or recertify at the end of the 3-yr period. This material will also include information on dates and locations of certification exams.

For Task 4:

DNR will review materials developed for this site for technical content.

For Task 5:

DNR will request of ISUE updated exam questions 90 days in advance of plans to administer new exams.

For Task 6:

DNR will assist in selection of representative(s) to serve on this advisory committee.

For Task 7:

In order to provide accurate reporting, DNR will furnish the following data for both the confinement site manure applicator program and the commercial manure applicator program: attendance (number of people trained yearly and number of people certified), number of new certifications, number of people receiving CICs for confinement site program, certification events, and number of people certified by exam.

For Task 8:

DNR will assist in identifying commercial applicators for advisory committee membership and will share program-planning ideas for subject matter development in the Commercial manure applicator program.

For Task 9:

DNR will provide assistance during in-service training as requested by ISUE.

For Task 10:

DNR will provide assistance during this in-service training as requested by ISUE.

Exhibit C

Budget FY2008 FY2009 – Manure Applicator Certification

Salary and Wages

Program Coordinator(s) 1.2 FTE	54,590	55,682
Confinement Program Staff (Field Specialists)	24,000	24,720
Technical writers, editor and video production staff	10,000	10,200

Personnel Benefits

Program Coordinators	17,742	18,208
Confinement Program Staff (Field Specialists)	7,800	8,083
Technical writers, editor and video production staff	3,250	3,335

SUBTOTAL – PERSONNEL	117,382	120,228
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Travel

Field Specialists and Campus Faculty and staff	10,000	11,000
Supplies		

Postage	1,800	2,500
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Paper, office supplies, video session supplies		2,000
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Other

County Extension Workshop Support	16,000	18,000
(meeting rooms, postage, technical support)		

Telecom/Computer	1,200	
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Satellite Downlink Costs	5,000	
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In-Service Training -Field Specialists (2hrs).....	750	
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Printing/Copying.....		
(training material production and distribution charges)	5,000	

Web page design, closed captioning, editor, and commercial program staff		5,000
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Total Project Costs	\$164,132	170,678
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